

PR#9833

STRONG, J.D.

4/9/2009

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IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF OKLAHOMA

STATE OF OKLAHOMA, et al.,
Plaintiff,

vs. CASE NO. 05-CV-00329-GKF SAJ

TYSON FOODS, INC., et al.,
Defendants.

VIDEOTAPED DEPOSITION OF J.D. STRONG
TAKEN ON BEHALF OF THE DEFENDANTS
ON APRIL 9, 2009, BEGINNING AT 8:40 A.M.
IN OKLAHOMA CITY, OKLAHOMA

APPEARANCES:

On behalf of the PLAINTIFF:

Mr. J. Trevor Hammons
Mr. Dan Lennington
OKLAHOMA ATTORNEY GENERAL'S OFFICE
313 Northeast 21st
Oklahoma City, Oklahoma 73105
405-522-2801
thammons@oag.state.ok.us

On behalf of the DEFENDANT-TYSON FOODS, TYSON CHICKEN,
TYSON POULTRY AND COBB-VANTRESS, INC.:

Mr. Robert George
KUTAK, ROCK
214 West Dickson
Fayetteville, Arkansas 72701
(479) 973-4200
ryan.burns@kutakrock.com

On behalf of the DEFENDANT-PETERSON FARMS, INC.:

Ms. Nicole Longwell
MCDANIEL, HIXON, LONGWELL & ACORD
320 South Boston, Suite 700
Tulsa, Oklahoma 74103
(918) 382-9200
nlongwell@mcdaniel-lawfirm.com

REPORTED BY: Laura L. Robertson, CSR, RPR

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(APPEARANCES CONTINUED)

On behalf of the DEFENDANT-GEORGE'S, INC. AND GEORGE'S
FARMS, INC.:

Ms. K.C. Dupps Tucker

THE BASSETT LAW FIRM

221 North College Avenue

Fayetteville, Arkansas 72702

(479) 521-9996

kctucker@bassettlawfir.com

On behalf of the DEFENDANT-CARGILL, INC. AND CARGILL
TURKEY PRODUCTION:

Mr. John Tucker

RHODES, HIERONYMUS, JONES, TUCKER & GABLE

100 West 5th Street, Suite 400

Tulsa, Oklahoma 74103

(918) 582-1173

jtucker@rhodesokla.com

ALSO PRESENT: Stephen Carns, Videographer

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1 THE VIDEOGRAPHER: This is the deposition of
2 J.D. Strong, taken on behalf of the defendants in the
3 matter of the State of Oklahoma versus Tyson Foods.
4 It is filed in the U.S. District Court for the
5 Northern District of Oklahoma, Case Number
6 is 05-CV-00329-GKF-SAJ, being held 313 Northeast 21st,
7 in Oklahoma City, Oklahoma on the 9th of April, 2009.

8 On record at 8:42 a.m. Counsel please state
9 your appearance for the record.

10 MR. LENNINGTON: Dan Lennington for the
11 State of Oklahoma.

12 MR. HAMMONS: Trevor Hammons for the State
13 of Oklahoma.

14 MR. GEORGE: Robert George for the Tyson
15 defendants.

16 MR. TUCKER: John Tucker for the Cargill
17 defendants.

18 MS. TUCKER: K.C. Tucker for the George's
19 defendants.

20 MS. LONGWELL: Nichole Longwell on behalf of
21 Peterson Farms.

22 WHEREUPON,

23 J.D. STRONG,
24 after having been first duly sworn, deposes and says
25 in reply to the questions propounded as follows,

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1 Q. Is it your understanding that the document
2 we read earlier effectively substitutes you for
3 Mr. Tolbert with respect to this complaint?

4 A. I assume that that does. That's a legal
5 question, so --

6 Q. Let me ask you to turn to page 31. Could
7 you read the first sentence in paragraph 133 under the
8 Oklahoma Administrative Code and Oklahoma Statute,
9 section 10-9.7?

10 A. Read what again, I'm sorry?

11 Q. The first sentence of paragraph 133?

12 A. "The poultry integrator defendants wrongful
13 poultry waste disposal practices by and through those
14 practices that occurred in Oklahoma have caused, among
15 other things, the runoff of poultry waste into the
16 waters in the Illinois River Watershed within
17 Oklahoma, contamination of the waters of the Illinois
18 River Watershed within Oklahoma, and the creation of
19 an environmental or public health hazard within
20 Oklahoma."

21 Q. Can you identify for me, Mr. Strong, if any
22 farm under contract with my client, Tyson Foods, that
23 has engaged in a practice that results in the runoff
24 of poultry waste into the waters in the IRW within
25 Oklahoma as alleged in paragraph 133?

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1 A. I cannot identify specific operations.

2 Q. Who could do that?

3 A. Again, I suppose possibly Department of
4 Agriculture with oversight of these operations and/or
5 our experts that have done extensive investigation.

6 Q. Have any of your experts told you that they
7 can identify specific farms where runoff of poultry
8 waste into the waters of the state of Oklahoma has
9 occurred?

10 A. I don't believe any have identified that to
11 me, no.

12 Q. Has anyone at the Oklahoma Department of Ag
13 ever told you, Mr. Strong, that they can identify for
14 you farms where runoff of poultry waste into the
15 waters of the state within the IRW has occurred?

16 A. I don't recall anyone from Department of
17 Agriculture identifying a particular operation.

18 Q. Did you review this complaint when you
19 assumed the office of Secretary of the Environment and
20 was substituted as a party in this litigation?

21 A. I have read so many documents, I'm not sure
22 if I read that this specific one.

23 Q. You don't know if you read this complaint or
24 not?

25 A. I'm not sure if I have read this exact one

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1 or not.

2 Q. As we sit here today, Mr. Strong, you as the
3 Secretary of the Environment for the state of
4 Oklahoma, who is a party to this case, cannot identify
5 for me any instance in which a contract grower who has
6 a contract with my client, Tyson Foods, has engaged in
7 conduct that results in the runoff of poultry waste
8 into the waters in the IRW as alleged in paragraph
9 133, can you?

10 MR. LENNINGTON: Objection to form.

11 Q. (BY MR. GEORGE) Go ahead.

12 A. I cannot identify a specific operation.

13 Q. If I ask that same question for the other
14 defendants that you have sued in this lawsuit, you
15 wouldn't be able to answer it either, would you?

16 MR. LENNINGTON: Object to the form.

17 THE WITNESS: I would not be able to
18 identify a specific operation for any of the others.

19 Q. (BY MR. GEORGE) Do you see the second
20 sentence of this paragraph says that there have been
21 violations of animal waste management plan criteria
22 set forth in the Registered Poultry Feeding Operations
23 Act. Do you see that?

24 A. Yes.

25 Q. What is the basis for those allegations?

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1 MR. LENNINGTON: Object to the form.

2 THE WITNESS: This language was developed by
3 counsel, so I was --

4 Q. (BY MR. GEORGE) I'm sorry, go ahead.

5 A. I would assume that they have the
6 information to back that up.

7 Q. You're relying on your lawyers to be able to
8 substantiate that claim?

9 A. Yes.

10 Q. Did you conduct any investigation yourself
11 to determine whether that claim is valid or not?

12 A. I have not conducted investigations of
13 violations referenced here.

14 Q. Have you talked to Terry Peach, the
15 Secretary of the Department of Agriculture to see
16 whether or not Animal Waste Management Plans are being
17 followed in the Illinois River Watershed?

18 A. I'm not sure if we have had discussions
19 specific to the Illinois River Watershed. I know they
20 have submitted information to our office before that
21 demonstrates that they have taken enforcement actions
22 under this act.

23 Q. In the Illinois River Watershed?

24 A. I guess because it was submitted for the
25 Senate Bill 972 report, I would assume that that was